

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

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IN THE MATTER OF )  
RHODE ISLAND STATE LABOR )  
RELATIONS BOARD )

AND CASE NO. ULP-4601  
LIME ROCK FIRE DISTRICT )

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DECISION OF BOARD ON MOTION TO DISMISS

This matter is before the Rhode Island State Labor Relations Board (hereinafter Board) at this time upon the Motion of Lime Rock Fire District (hereinafter District) to Dismiss this matter upon the basis that the District "...is unable to have a full, fair and impartial hearing as granted to other parties coming before this Board" because Frank J. Montanaro, one of the Board's members who has recused himself from sitting on this matter denies the District the opportunity to have this matter heard by all five (5) members of the Board.

The Board sees no difference in this case then in a case before the Supreme Court of the State of Rhode Island when one of its five (5) members recuses himself or herself from sitting in a particular case because he or she may have an interest in the pending matter or may have some real or apparent conflict of interest in the pending matter. When such happens, the four (4) remaining Justices sit and determine the case. Where all five (5) sit and determine a case, there must be a majority decision of three (3). When only four (4) sit there must still be a

majority decision of three. The same holds true in the instant case.

In addition, R.I.G.L. 28-7-5 specifically provides in part that: "...two (2) members of the board shall, at all times, constitute a quorum".

District suggests that this proceeding be removed "...to another jurisdiction where a full panel may hear them in an impartial fashion". The short answer to this is that the Board is the only agency authorized, by statute, to hear Unfair Labor Practice Complaints and no other agency of the State has such powers.

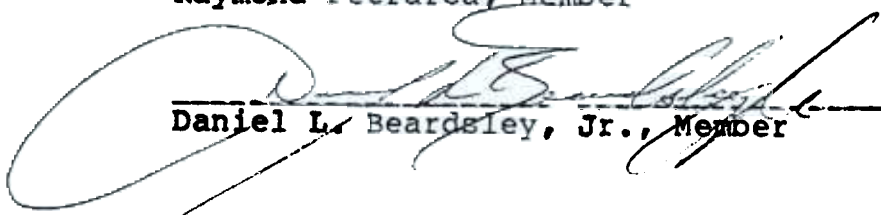
all of the foregoing, the Motion to Dismiss is denied.

RHODE ISLAND STATE LABOR RELATIONS BOARD

  
Joseph V. Mulvey, Chairman

  
Glenn H. Edgecomb, Member

  
Raymond Petrarca, Member

  
Daniel L. Beardsley, Jr., Member

Entered as Order of the  
Rhode Island State Labor Relations Board

Dated: December 1, 1992

By: 